



WISCONSIN SUPREME COURT
Tuesday, September 16, 2003
1:45 p.m.

02-0980 Mark Anderson et al. v. American Family
Mutual Ins. Co. et al.

This is a review of a decision of the Wisconsin Court of Appeals, District III (headquartered in Wausau), which reversed in part a ruling of the Marinette County Circuit Court, Judge Tim A. Duket presiding.

In this case, the Wisconsin Supreme Court will decide whether a parent can be held liable if the parent provides alcohol to his/her underage child, and the child shares the alcohol with a friend who drinks himself to death.

Here is the background: On March 19, 1999, Mary Anne Brasure purchased a 1.75 liter bottle of vodka which she left for her son, Gregory Brasure, then 19, with a note that said, "Greg, you owe me \$12.00." Gregory brought the alcohol along on a trip to his parents' vacation home with his friends, Craig Anderson and Robert Tripp. That night or early the next morning, Craig Anderson died of alcohol poisoning. His parents, Mark and Janet Anderson, sued Mary Anne and Gregory, and the Brasures' insurer, American Family.

The trial court granted the Brasures' motion for summary judgment, dismissing the case. The basis for this decision was a Wisconsin law¹ that protects people who serve alcohol from being sued if the drinker is injured, or injures someone else. This law does not protect a server who knows, or should have known, that a person is underage, and it leaves the server open to liability if the alcohol provided to the underage drinker is a substantial factor in causing the injury of a third party.

In the trial court, the Andersons had argued that their son, Craig, qualified as a "third party" under the statute. The judge acknowledged that Mary Ann Brasure knew her son was underage, but found that she could not be held liable for the death of her son's friend. The judge determined that Craig died as a direct result of his own over consumption of alcohol and thus did not qualify as a third party under the law.

The Court of Appeals saw it differently. That court found that a person is not automatically barred from suing just because s/he was drinking.

Mary Anne Brasure has now appealed that decision to the Supreme Court, which will determine whether a person who provides alcohol can be held liable when an underage person drinks and injures himself.

¹ Wis. Stat. §125.035(2)